

SEC denies landfill appeal



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CARSON CITY — An effort to appeal the decision by the Nevada Division of Environmental Protection to issue the final permit for the proposed Jungo Road landfill was unsuccessful.

A three-member panel of the Nevada State Environmental Commission voted unanimously not to grant the appeal after nearly 12 hours of testimony over a two-day period that covered the technical details of the landfill. Testimony began on Monday (May 21) in Carson City.

The appeal was brought by Robert Hannum, who has property in the area, Richard Cook, a resident of Winnemucca, and the Clean Desert Foundation. All were represented by Dolan Law Office.

In order to be successful in their appeal attempt, it was necessary for the appellants to provide evidence NDEP was capricious and abused its discretion in issuing the permit.

The primary issue raised during the permit concerned water. Those appealing asserted the water table will be jeopardized from contaminants, known as leachate, leaking through the landfill, through the soil, and into the water.

The appellants also alleged the controls designed to control pooling water on the desert floor were insufficient.

Testimony came from the appellants themselves who, although they had conducted extensive research, were not able to testify from the position of being experts. Their testimony was kept to their opinions and observations.

The lack of expert witnesses hampered the ability of the appellants to provide the evidence looked for by the SEC. When asked why they did not hire expert witness to testify on their behalf, Dolan reminded the board that such testimony was expensive to procure.

Although the appellants objected to the site itself as being a poor location for a landfill, as was noted by NDEP the state had no authority over the site location itself, which was approved by Humboldt County.

NDEP and Recology were able to counter the allegations of capricious action made by the appellants with expert witnesses and records of the engineers from Golder Engineers, whose engineers had a long history of designing landfills.

In the state's rebuttal they provided evidence that they had been anything but capricious in their decision making:

- Permitting the landfill was more than a four-year process

- Jungo's original technical plans were determined to be insufficient and were redesigned to NDEP's satisfaction.

- The technical design actually exceeded all regulatory requirements.

- The landfill was designed by Golder Associates, who have extensive background in landfill design

Testifying for NDEP was Jon Taylor, the professional engineer who required Recology to redesign the original specs to provide greater controls over potential hazards and reduce risks to the environment.

Taylor explained while the NDEP did waive the 100 foot from the bottom of the landfill to the upper portion of the water basin requirement, they also required Recology to entirely redesign the liner system to provide greater protection to the basin.

Taylor told the SEC panel the system was unique in Nevada, the only one with a double liner system, and was more akin to landfills that manage hazardous waste, which the Jungo Road landfill will not accept.

Taylor explained the 100-foot requirement was an arbitrary number and not based on any scientific research. He pointed out that in California the law only requires 5 feet between the bottom of the landfill and the uppermost portion of the water basin.

Taylor said while he wasn't aware of any landfills in the state with less than 30 feet between the landfill and water basin, he also said there wasn't a landfill in Nevada with technical designs like the one Recology proposed to build on Jungo Road.

He said to protect the water basin from potential contaminants it was more important to remove the leechate from the landfill before it reached the liner and to have extensive monitoring systems, which was provided for in the Jungo Road landfill design.

Although the statutory requirements state there can be no more than 12 inches of leechate on the liner, the technical design of the proposed Jungo Road Landfill was completed so only a fraction of an inch of leechate would ever be on the liner before being removed.

The design also calls for methane gas collection and monitoring and 15 monitoring wells.

Additionally, Taylor required a review of the operation at the 10 and 20 year mark to determine if the landfill protections were working as they were designed to.

Throughout Taylor's testimony one factor was pointed out over and over again: NDEP required Recology to design a landfill that exceeded regulations.

